

MONTANA LEGISLATIVE HISTORY

Chapter 305 ~~19~~ 2005

Bill H _____ S 491 Original bill & history X c

H. Committee on STATE ADMINISTRATION S. Committee on FINANCE & CLAIMS

Hearing Date(s) 3/31 X c

Φ EXEC. ACTION

_____ c

_____ c

_____ c

Date Out _____ c

Hearing Date(s) 3/8 X c

EXEC ACTION 3/22 X c

_____ c

_____ c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

If you have concerns regarding the format of the enclosed committee minutes or the recordings of the hearings, it is suggested that you contact your state legislators.

Bill Draft Number: LC1675**Bill Type - Number:** SB 491**Short Title:** Revise benefits and definitions in firefighters' unified retirement system**Primary Sponsor:** Steven Gallus**Bill Actions - Current Bill Progress:** Became Law**Bill Action Count:** 51

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/20/2005			
(S) Signed by Governor	04/19/2005			
(S) Transmitted to Governor	04/16/2005			
(H) Signed by Speaker	04/14/2005			
(S) Signed by President	04/14/2005			
(C) Sent to Printing	04/13/2005			
(S) Returned from Enrolling	04/12/2005			
(S) Sent to Enrolling	04/11/2005			
(H) Returned to Senate	04/08/2005			
(H) 3rd Reading Concurred	04/08/2005	88	9	
(H) Scheduled for 3rd Reading	04/08/2005			
(H) 2nd Reading Concurred	04/07/2005	90	10	
(H) Scheduled for 2nd Reading	04/07/2005			
(H) Scheduled for 2nd Reading	04/06/2005			
(H) Committee Report--Bill Concurred	03/31/2005			(H) State Administration
(H) Committee Executive Action--Bill Concurred	03/31/2005	14	2	(H) State Administration
(H) Hearing	03/31/2005			(H) State Administration
(H) Referred to Committee	03/29/2005			(H) State Administration
(H) First Reading	03/29/2005			
(S) Transmitted to House	03/24/2005			
(S) 3rd Reading Passed	03/24/2005	42	8	
(S) Scheduled for 3rd Reading	03/24/2005			
(S) 2nd Reading Passed on Voice Vote	03/23/2005	49	1	
(S) Scheduled for 2nd Reading	03/23/2005			
(C) Sent to Printing	03/22/2005			
(S) Committee Report--Bill Passed as Amended	03/22/2005			(S) Finance and Claims
(S) Committee Executive Action--Bill Passed as	03/22/2005	19	0	(S) Finance and Claims

Amended

(S) Revised Fiscal Note Printed	03/21/2005	
(S) Revised Fiscal Note Received	03/18/2005	
(S) Revised Fiscal Note Requested	03/15/2005	
(S) Hearing	03/08/2005	(S) Finance and Claims
(S) Fiscal Note Printed	02/19/2005	
(S) Fiscal Note Signed	02/19/2005	
(S) Fiscal Note Received	02/19/2005	
(S) Rereferred to Committee	02/17/2005	(S) Finance and Claims
(C) Introduced Bill Text Available Electronically	02/15/2005	
(S) Fiscal Note Requested	02/15/2005	
(S) Referred to Committee	02/15/2005	(S) State Administration
(S) First Reading	02/15/2005	
(S) Introduced	02/15/2005	
(C) Draft Delivered to Requester	02/14/2005	
(C) Draft Ready for Delivery	02/14/2005	
(C) Draft in Assembly/Executive Director Review	02/14/2005	
(C) Draft in Final Drafter Review	02/14/2005	
(C) Bill Draft Text Available Electronically	02/12/2005	
(C) Draft in Input/Proofing	02/12/2005	
(C) Draft to Drafter - Edit Review [SAB]	02/11/2005	
(C) Draft in Edit	02/11/2005	
(C) Draft in Legal Review	02/11/2005	
(C) Draft to Requester for Review	02/03/2005	
(C) Draft Request Received	12/04/2004	

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Gallus	Steven
Drafter	Heffelfinger	Sheri
Primary Sponsor	Gallus	Steven

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Retirement (see also: Senior Citizens)		Simple	RETR

Fires and Fire Protection

Simple

FIRE

Additional Bill Information

Probable Fiscal Note: Yes

Preintroduction Required: N

Session Law Ch. Number: 305

DEADLINE

Category: Appropriation Bills

Transmittal Date: 03/30/2005

Return (with 2nd house amendments) Date: 04/14/2005

Section Effective Dates

Section(s) Effective Date Date Qualified

All Sections 01-JUL-05

SENATE BILL NO. 491
INTRODUCED BY S. GALLUS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING BENEFITS AND DEFINITIONS IN THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM; REVISING THE DEFINITION OF "COMPENSATION"; CHANGING HOW AVERAGE SALARIES ARE CALCULATED TO DETERMINE BENEFIT AMOUNTS; AMENDING SECTIONS 19-13-104, 19-13-704, 19-13-803, AND 19-13-902, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 19-13-104, MCA, is amended to read:

"19-13-104. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

(1) Any reference to "city" or "town" includes those jurisdictions that, before the effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban firefighting services, or the entire county included in the county-municipal consolidation.

(2) "Compensation" means:

(a) for a full-paid firefighter, the remuneration paid from funds controlled by an employer in payment for the member's services, including payments for overtime, before any pretax deductions allowed by state and federal law are made;

(b) for a part-paid firefighter employed by a city of the second class:

(i) 15% of the regular remuneration, ~~excluding~~ including overtime, but excluding holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to a newly confirmed, full-paid firefighter of the city that employs the part-paid firefighter; or

(ii) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration, ~~excluding~~ including overtime, but excluding holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to all newly confirmed, full-paid firefighters employed by cities of the second class.

(c) Compensation for full-paid and part-paid firefighters does not include:

(i) ~~overtime~~, holiday payments, shift differential payments, compensatory time payments, and payments

in lieu of sick leave; and

(ii) maintenance, allowances, and expenses.

(3) "Dependent child" means a child of a deceased member who is:

(a) unmarried and under 18 years of age; or

(b) unmarried, under 24 years of age, and attending an accredited postsecondary educational institution as a full-time student in anticipation of receiving a certificate or degree.

(4) "Employer" means any city that is of the first or second class or that elects to join this retirement system under 19-13-211 or, with respect to firefighters covered in the retirement system pursuant to 19-13-210(2), the department of military affairs established in 2-15-1201.

~~(5) "Final average compensation" means the monthly compensation of a member averaged over the last 36 months of the member's active service or, in the event a member has not served at least 36 months, the total compensation earned divided by the number of months of service. Lump-sum payments for annual leave paid to the member upon termination of employment may be used to replace, on a month-for-month basis, the regular compensation for a month or months included in the calculation of final average compensation.~~

~~(6)~~(5) "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.

~~(7)~~(6) "Full-paid firefighter" means a person appointed by an employer as a firefighter under the standards provided in 7-33-4106.

(7) "Highest average compensation" means the monthly compensation of a member averaged over the highest 36 months of the member's active service or, in the event a member has not served at least 36 months, the total compensation earned divided by the number of months of service. Lump-sum payments for annual leave paid to the member upon termination of employment may be used to replace, on a month-for-month basis, the regular compensation for a month or months included in the calculation of highest average compensation.

(8) "Minimum retirement date" means the first day of the month coinciding with or immediately following, if none coincides, the date on which a member ~~becomes~~ reaches both ~~age 50 years of age~~ or older and completes 5 or more years of membership service.

(9) "Part-paid firefighter" means a person employed under 7-33-4109 who receives compensation in excess of \$300 a year for service as a firefighter.

(10) "Prior plan" means the fire department relief association plan of a city that elects to join the retirement system under 19-13-211 or the fire department relief association plan of a city of the first or second class.

(11) "Retirement date" means the date on which the first payment of benefits is payable.

(12) "Retirement system" means the firefighters' unified retirement system provided for in this chapter.

(13) "Surviving spouse" means the spouse married to a member at the time of the member's death."

Section 2. Section 19-13-704, MCA, is amended to read:

"19-13-704. Amount of service retirement benefit. (1) Except as provided in subsection (2), a member who retires with at least 5 years of membership service must receive a service retirement benefit equal to 2.5% of the member's ~~final~~ highest average compensation for each year of service credit.

(2) A member hired before July 1, 1981, who does not elect to be covered under 19-13-1010 is entitled to the greater of:

(a) the benefit provided under subsection (1); or

(b) (i) if the member retires with less than 20 years of membership service, a benefit equal to 2% of the member's ~~final~~ highest monthly compensation for each year of service; or

(ii) if the member retires with 20 or more years of membership service, a benefit equal to 50% of the member's ~~final~~ highest monthly compensation plus 2% of the member's ~~final~~ highest monthly compensation for each year of service over 20 years.

(3) Upon a retired member's death, the benefit must be made to the surviving spouse. If there is no surviving spouse or if the surviving spouse dies and if the member leaves one or more dependent children, the children are entitled to receive the benefit as long as they remain dependent children as defined in 19-13-104."

Section 3. Section 19-13-803, MCA, is amended to read:

"19-13-803. Amount of disability retirement benefit. (1) A member who becomes disabled:

(a) before completing 20 years of membership service must receive a disability retirement benefit equal to one-half the member's ~~final~~ highest average compensation;

(b) after completing 20 years or more of membership service must receive a disability retirement benefit equal to 2.5% of the member's ~~final~~ highest average compensation for each year of service credit.

(2) Upon the death of a member receiving a disability retirement benefit under this section, the member's surviving spouse or dependent child is eligible for benefits as provided in 19-13-104."

Section 4. Section 19-13-902, MCA, is amended to read:

"19-13-902. Survivorship benefit. (1) A member's surviving spouse, if there is one, must receive a survivorship benefit amount as provided in this section. If a member leaves no surviving spouse or upon the

death of the surviving spouse, the member's surviving dependent children must collectively receive the same benefit that a surviving spouse would have received under this section. A child may receive a share of the benefit as long as the child is a dependent child, as defined in 19-13-104.

(2) (a) The survivorship benefit paid upon the death of an active member who has completed less than 20 years of membership service is one-half the ~~final~~ highest average compensation received by the member.

(b) The survivorship benefit paid upon the death of an active or inactive member who has completed over 20 years of membership service is the benefit amount to which the member was entitled on the date of death.

(3) Benefits provided under this section are subject to the benefit adjustments provided pursuant to part 10 of this chapter."

NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2005.

NEW SECTION. **Section 6. Applicability.** [This act] applies to benefits calculated on or after [the effective date of this act].

- END -

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN MIKE COONEY**, on March 8, 2005 at 8:00 A.M., in Room 317 Capitol.

ROLL CALL

Members Present:

Sen. Mike Cooney, Chairman (D)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. John Brueggeman (R)
Sen. John Cobb (R)
Sen. John Esp (R)
Sen. Steven Gallus (D)
Sen. Ken (Kim) Hansen (D)
Sen. Bob Hawks (D)
Sen. Rick Laible (R)
Sen. Lane L. Larson (D)
Sen. Greg Lind (D)
Sen. Trudi Schmidt (D)
Sen. Corey Stapleton (R)
Sen. Dan Weinberg (D)
Sen. Carol Williams (D)

Members Excused: Sen. Bob Keenan (R)
Sen. Don Ryan (D)
Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Taryn Purdy, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 484, 3/2/2005; SB 491, 3/2/2005;
SB 439, 3/2/2005; HB 493, 3/2/2005;
SB 146, 3/2/2005

Executive Action: None.

do the actuarial figures. In the last three years, the numbers are the worst they have looked in many years. He hoped they can address the issue of the unfunded liability. **SEN. BARKUS** referred to the \$667 increase for the fireman's average monthly benefit which is over 50% of what teachers get. He asked how they can justify that if they vote for this bill. **REP. BERGREN** replied there has been a dramatic flaw in the Teachers Retirement System for quite a few years. It is called back-end loading; they take the average final compensation, three years of comp time, two years of vacation, and a certain percent of sick leave, and all that money is paid in the last month or year. That inflates the amount of money they are allowed to take out of the system and is a structural imbalance that has been in the system for several years. There are protections in the Firefighters Retirement System to prevent that.

SEN. JOHN ESP asked **Mr. O'Connor** what the fiscal note would look like in the out years. **Mr. O'Connor** said the 32% is current law and that is why it is not in the fiscal note. The actuary is saying if contributions are increased by 5.68% that \$21.2 million is what would be collected. That is what additional revenue is needed. **SEN. ESP** asked if the \$1.2 million would increase incrementally or is it based on inflation. **Mr. O'Connor** replied it is a percent of salary; as salaries increase, so does the percentage.

Closing by Sponsor:

SEN. GALLUS offered to lower the three percent to make the fiscal impact much less. They could make the three percent only applicable to the extra five years that the firefighters would work. He urged the committee to resist comparing this to teachers, game wardens, or peace officers.

HEARING ON SB 491

{Tape: 1; Side: B; Approx. Time Counter: 17.8}

Opening Statement by Sponsor:

SEN. STEVEN GALLUS (D), SD 37, Butte, opened the hearing on **SB 491**, Revise benefits and definitions in firefighters' unified retirement system. **SEN. GALLUS** referred to the language on line 23 which would include overtime in how benefits are calculated at the end. Page 2, line 19, refers to the highest average compensation. This is the difference between taking the final three months of employment and averaging 36 months as compared to the best three years ever. Using the highest 36 months would

allow mobility within the system and make the system stronger overall.

Proponents' Testimony:

Kurt Bushnell, Montana State Firemen Association, (MSFA), testified this is an equity issue, with some concessions. All the other retirement systems, except police officers, enjoy their retirement benefits compensation based on overtime, holiday pay, comp time issues, and payments in lieu of sick leave. On page 1, line 23, the concessions are excluding holiday pay, shift differential, compensatory time, and payments in lieu of sick leave. This legislation just includes the overtime. He referred to some issues with the fiscal note. Their information shows that firefighters' overtime budgets were much less than police officers in the big seven cities. He noted a bill by the police officers this session will include the shift differential, overtime, and holiday pay. He urged support for the bill.

Doug Neil, Montana State Firemen's Association, addressed the fiscal note. The seven largest fire departments in the state of Montana represent approximately 350 of the 438 members in the FERC system. Of those 350 members of the seven largest departments, their overtime budgets for the current fiscal year represent \$626,000. The fiscal note shows a figure of \$2.177 million. He did not think the other departments would make up the other 72%. As **REP. BERGREN** alluded to in the prior bill, overtime has been excluded from retirement benefits because in the past they had final month compensation. Currently, they use final average compensation over 36 months and they want to change that to the highest average compensation. **Mr. Neil** testified he is a captain in Great Falls, one of the largest departments but one of the least paid of the largest departments. He said he would be precluded from going to Livingston, Lewistown, or any of the smaller departments, to apply for a fire chief's job. His career goal is to go out as a fire chief and he has taken extensive training. For his family's well being, he will not be able to continue his career at a smaller department and be able to share his knowledge. For city employees, other than police officers, overtime benefits are included in the calculation for retirement. Firefighters do not get a lot of overtime, and they do not see a huge increase to the city in paying for retirement.

Pat Clinch, Montana State Council for Professional Firefighters, stated support for the bill. Many of the fire departments in Montana are understaffed. Some overtime budgets are large because departments are balancing their budgets by working longer hours. Current firefighters in Montana work 45-48 hours per week on average. When they do get overtime, it is straight time pay.

They feel they are entitled to this being considered in the retirement benefit.

{Tape: 2; Side: A}

REP. BERGREN, observed the fiscal note assumes that every member would receive \$5000 annually in overtime. This is disputed by the facts and they will attempt to provide a sponsor's fiscal note. Not all of the overtime that is paid is on a time-and-a-half basis. Many times it is paid time-and-a-half for a middle of the night call. If it extends beyond two hours, it drops back to straight time. He said he made about \$1000 in overtime last year. Some of the smaller departments such as Kalispell, Miles City, Livingston, and Havre have fire-based ambulance services. The number that work with those are limited. They strongly disagree with the fiscal note. There is more accurate information that can be provided.

Opponents' Testimony:

Alec Hansen, League of Cities and Towns, expressed appreciation for the fire service and the good service they provide. He did not think the bill is affordable. The fiscal note indicates additional employer contributions of \$325,000. HB 426 provides a similar benefit to police officers. Together with that bill, the total annual cost will increase employer contributions for cities and towns in excess of \$500,000 a year. In 1510-420, the Property Tax Limitation Act, cities and towns are allowed to increase their tax-financed budgets by one-half the rate of inflation. One half the rate of inflation for the cities is about one percent. This bill and the police bill will eat up the inflationary adjustment in the property tax law beginning in 2005 and every year thereafter.

Informational Testimony:

Melanie Symons, Public Employee Retirement Board (PERB), said when viewing legislation the Board considers whether there is an additional cost to the retirement system that is being funded by the bill. Unlike the previous bill, it appears from the actuarial evaluation there is little actuarial impact. The Board has a concern regarding whether the bill will result in consistency in the definition of compensation. A chart showed the definition of compensation for different retirement systems.

EXHIBIT(fcs51a03)

The firefighters include payments in lieu of annual leave and the police do not. The remaining public safety systems exclude only

maintenance, allowance, and expenses from their definition. The Board encourages the committee, if the bill passes, to bring this more in line with the other definitions of compensation and to add shift differential and holiday pay to the definition as well. This would result in consistent definition for all systems, would make administration easier, and would prevent other retirement systems from coming back to the Legislature to ask for the same things previous retirement systems have gotten. The Board acknowledges they do not have all the necessary information to determine compensation. There is a lack of data regarding the expected increase in compensation due to the addition of overtime. The Board's fiscal services bureau chief has contacted twenty-two of the first and second-class cities regarding the amount budgeted for overtime, holiday pay, and shift differential. Overtime alone increases compensation, according to these cities, by \$1,186,852 which is approximately a 5.92% increase in compensation. Changing the definition of compensation to include overtime, holiday pay, and shift differential would increase the compensation for those cities by \$1.4 million or seven percent. The same change for the police, in HB 426, would increase compensation for the police by \$2,410,000, which is a 9.825% increase in compensation. The firefighters want to change the final average salary to highest average compensation. The police and the firefighters are the only retirement systems that still use final average salary. If the Legislature believes this change is appropriate for the firefighters, this is also appropriate for the police. The Board asks that the change be made for both systems

Questions from Committee Members and Responses:

SEN. ESP asked if the change from the final average to the highest average and including overtime in compensation would allow picking up the months where there was the most overtime in the last four or five years and pulling them together. **SEN. GALLUS** didn't know if it allowed using the best three months ever, but thought they had to be grouped together. **REP. BERGREN** said it was any consecutive 36 months. **SEN. ESP** asked **Mr. O'Connor** for clarification. **Mr. O'Connor** confirmed it is 36 consecutive months. **SEN. ESP** asked if that is something that is understood or if it is defined. **Mr. O'Connor** indicated the definition of compensation would say what highest average compensation is.

SEN. LIND asked about the impacts that component of the change would have on the fiscal note. **Mr. O'Connor** advised usually the last 36 months is the highest 36 months. In theory, there is no cost.

SEN. LAIBLE asked **Mr. Hansen** about the collective bargaining process where the retirement benefits and wages are negotiated. **Mr. Hansen** advised the negotiations are between the cities and the fire unions. Pension benefits are set in statute by the Legislature.

SEN. ESP asked if the percentage of pay set is in statute or negotiated. **Mr. Hansen** said the pension programs were established and controlled by the Legislature and are set in statute.

Closing by Sponsor:

SEN. GALLUS stressed the fiscal note is inaccurate regarding overtime. He is trying to make communities better. This brings the police and fire service up to speed on their compensation packages. This is about equity. He indicated the proponents would be available.

HEARING ON SB 439

{Tape: 2; Side: A; Approx. Time Counter: 21.4}

Opening Statement by Sponsor:

SEN. KELLY GEBHARDT (R), SD 23, Roundup, opened the hearing on **SB 439**, Participation by certain employers in firefighters' unified retirement system. **SEN. GEBHARDT** distributed a report from **Sheri Heffelfinger**, Legislative Services Division.

EXHIBIT(fcs51a04)

SEN. GEBHARDT advised SB 439 allows fire districts to be under the Firefighter's Unified Retirement System. In the initial hearing on the bill there were a number of proponents. **Kelly Jenkins, Public Employees Retirement Board**, testified in favor of the bill. Revenues increased in the insurance premium tax. In 2002, there was \$22 million going into that fund, and now there is \$28.7 million.

Proponents' Testimony:

Mike O'Connor, Public Employees' Retirement Administration, stated support for the bill and characterized it as a policy issue. He said it is a matter of good retirement system design. If there are employees in the state who are paid firefighters, they should be in a public safety system. Currently, these

Definitions of Compensation by Retirement System

MPORS (1977)	FURS (1981)	HPORS (1974), SRS (1974), GWPORS (1963)	PERS (1947)
Definition: Remuneration paid from funds controlled by an employer in payment for the member's services before any pretax deductions allowed by state and federal law.	Remuneration paid from funds controlled by an employer in payment for the member's services before any pretax deductions allowed by state and federal law.	Remuneration paid from funds controlled by an employer in payment for the member's services or for time during which the member is excused from work because the member has taken compensatory leave, sick leave, annual leave, or a leave of absence, before any pretax deductions allowed by state or federal law	Remuneration paid from funds controlled by an employer in payment for the member's services or for time during which the member is excused from work because of a holiday or because the member has taken compensatory leave, sick leave, annual leave, or a leave of absence, before any pretax deductions allowed by state or federal law
Compensation does not include:			
Overtime	Overtime		
Holiday payments	Holiday payments		
Shift differential payments	Shift differential payments		
Compensatory time payments	Compensatory time payments		
Maintenance, allowances and expenses	Maintenance, allowances and expenses	Maintenance, allowances and expenses	
Pay in lieu of sick/ annual leave	Pay in lieu of sick leave		Pay or contributions in lieu of wages
			In-kind goods (uniforms, meals, housing, transportation)
			In-kind service (retraining allowances)
			Contributions to group insurance
			Lump-sum payments for compensatory, sick or annual leave paid without termination of employment

**MONTANA SENATE
2005 LEGISLATURE**

ROLL CALL

FINANCE AND CLAIMS

DATE 3-8-05

NAMES	PRESENT	ABSENT	EXCUSED
SEN. MIKE COONEY (D), CHAIRMAN	✓		
SEN. TRUDI SCHMIDT (D), VICE CHAIRWOMAN	✓		
SEN. KEITH BALES (R)	✓		
SEN. GREGORY BARKUS (R)	✓		
SEN. JOHN BRUEGGEMAN (R)	✓		
SEN. JOHN COBB (R)	✓		
SEN. JOHN ESP (R)	✓		
SEN. STEVE CALLUS (D)	✓		
SEN. KEN HANSEN (D)	✓		
SEN. BOB HAWKS (D)	✓		
SEN. BOB KEENAN (R)			✓
SEN. RICK LAIBLE (R)	✓		
SEN. LANE LARSON (D)	✓		
SEN. GREG LIND (D)	✓		
SEN. DON RYAN (D)			✓
SEN. COREY STAPLETON (R)	✓		
SEN. JON TESTER (D)			✓
SEN. DAN WEINBERG (D)	✓		
SEN. CAROL WILLIAMS (D)	✓		
TARYN PURDY, LSD	✓		
PRUDENCE GILDROY, COMMITTEE SECRETARY	✓		

**MONTANA STATE SENATE
2005 LEGISLATURE**

VISITOR REGISTER

FINANCE AND CLAIMS

DATE MARCH 8, 2005 **BILLS BEING HEARD TODAY** SB 439 . SB 491

SB 493 SB 484 SB 146

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Jim KEMBEL	439-6791	MT ASSOC. OF CHIEFS OF POLICE	SB 146	X	
ANDY POOLE	841-2707	DEPT OF COMMERCE	HB 493	X	
Harry Payne	447 8405	City of Helena	HB 484		X
" "	" "	" "	HB 491		X
Mike O'Connor	441-5459	Retirement Admin	SB 439	X	
" "	" "	" "	SB 484		X
Nick McElvath	444-2026	Attorney General	SB 146	X	
Michael C. Latham	543-2755	Parent	SB 146	X	
Brenda K. Latham	221-4342	Mt Families	SB 146	X	
Rev David L. Paul	777-2523	MT FAMILIES	SB 146	X	
Jermy Gersbach	443-3525	S - Y	SB 146		X
John Semple	443-7467	MT Fire Alliance	SB 439		
Melanie Symons	444-9174	MSFA	SB 491	X	
Frank Cote	3-9070	MSFA	SB 493	X	
Pat Clinch	431-6640	Misc PFF	SB 439	X	
KEITH SIMONOWITZ	461-0207	MSFA	439, 484	X	
KURT BUSHNELL	461-0207	MSFA	439, 484	X	
Jacqueline Denmark	2-0230	ACLU	SB 146	X	
Ron Underman	442-8568	Self	SB 146	X	
Scott Curtis	443 8540	ACLU	SB 146	X	
Jane McCall		City of Billings	SB 146	X	

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN MIKE COONEY**, on March 22, 2005 at 8:00 A.M., in Room 317 Capitol.

ROLL CALL

Members Present:

Sen. Mike Cooney, Chairman (D)
Sen. Keith Bales (R)
Sen. John Brueggeman (R)
Sen. John Cobb (R)
Sen. John Esp (R)
Sen. Steven Gallus (D)
Sen. Ken (Kim) Hansen (D)
Sen. Bob Hawks (D)
Sen. Bob Keenan (R)
Sen. Rick Laible (R)
Sen. Lane L. Larson (D)
Sen. Greg Lind (D)
Sen. Trudi Schmidt (D)
Sen. Corey Stapleton (R)
Sen. Jon Tester (D)
Sen. Dan Weinberg (D)
Sen. Carol Williams (D)

Members Excused: Sen. Don Ryan (D)
Sen. Gregory D. Barkus (R)

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Taryn Purdy, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:

Executive Action: SB 66; SB 249; SB 287; SB 319; SB 491; SB 224

a little suspect of doing something like this, based on those kinds of promises.

CHAIRMAN COONEY advised, since **SEN. ELLINGSON** has presented another option, he spoke to **Ms. Purdy** about an amendment along those lines. It is more complex than just a conceptual amendment.

SEN. ESP and **SEN. WILLIAMS** withdrew their motions.

EXECUTIVE ACTION ON SB 491

{Tape: 1; Side: B; Approx. Time Counter: 26.6}

Motion: **SEN. GALLUS** moved that SB 491 DO PASS AS AMENDED.

Discussion:

SEN. GALLUS reminded the committee that they amended the bill to not include overtime in a firefighter's retirement benefit. The amended fiscal note is zero. The Montana State Firefighters' Association still supports the bill.

SEN. RICK LAIBLE asked what the bill does now. **SEN. GALLUS** indicated the bill is a significant piece of legislation at this point. It would allow a firefighter to have to ability to move from one department to another and migrate upwards in rank to the position of chief. That might be in a community that is smaller than the one where they are a captain. This will allow them to use their higher salary as the 36 highest average months that they incurred during their career for retirement purposes. He thought it would benefit departments across the state.

Vote: Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 224

{Tape: 1; Side: B; Approx. Time Counter: 30.5}

Motion: **SEN. COBB** moved that SB 224 DO PASS.

Discussion:

SEN. HAWKS spoke about the need for a coordinating amendment with SB 359.

MONTANA SENATE
2005 LEGISLATURE

ROLL CALL

FINANCE AND CLAIMS

DATE 3.22-05

NAMES	PRESENT	ABSENT	EXCUSED
SEN. MIKE COONEY (D), CHAIRMAN	✓		
SEN. TRUDI SCHMIDT (D), VICE CHAIRWOMAN	✓		
SEN. KEITH BALES (R)	✓		
SEN. GREGORY BARKUS (R)			✓
SEN. JOHN BRUEGGEMAN (R)			
SEN. JOHN COBB (R)	✓		
SEN. JOHN ESP (R)	✓		
SEN. STEVE GALLUS (D)	✓		
SEN. KEN HANSEN (D)	✓		
SEN. BOB HAWKS (D)	✓		
SEN. BOB KEENAN (R)	✓		
SEN. RICK LAIBLE (R)	✓		
SEN. LANE LARSON (D)	✓		
SEN. GREG LIND (D)	✓		
SEN. DON RYAN (D)			✓
SEN. COREY STAPLETON (R)	✓		
SEN. JON TESTER (D)	✓		
SEN. DAN WEINBERG (D)	✓		
SEN. CAROL WILLIAMS (D)			
TARYN PURDY, LSD	✓		
PRUDENCE GILDROY, COMMITTEE SECRETARY	✓		



SENATE STANDING COMMITTEE REPORT

March 22, 2005

Page 1 of 2

Mr. President:

We, your committee on **Finance and Claims** recommend that **Senate Bill 491** (first reading copy -- white) **do pass as amended**.

Signed: 
Senator Mike Cooney, Chair

And, that such amendments read:

1. Title, page 1, line 5.

Strike: "REVISING THE DEFINITION OF "COMPENSATION";"

2. Page 1, line 20.

Following: "services"

Strike: ", including payments for overtime,"

3. Page 1, line 23.

Strike: "including"

Insert: "excluding"

Strike: "but excluding"

4. Page 1, line 27.

Strike: "including"

Insert: "excluding"

Strike: "but excluding"

5. Page 2, line 1.

Following: "overtime,"

Insert: "overtime,"

6. Page 2, line 20.

Following: "highest"

Committee Vote:

Yes 19, No 0.

631235SC.ssc



Insert: "consecutive"
Following: the second "36"
Insert: "consecutive"

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN LARRY JENT**, on March 31, 2005 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Larry Jent, Chairman (D)
Rep. Dee L. Brown, Vice Chairman (R)
Rep. Veronica Small-Eastman, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Mary Caferro (D)
Rep. Sue Dickenson (D)
Rep. Emelie Eaton (D)
Rep. Robin Hamilton (D)
Rep. Gordon R. Hendrick (R)
Rep. Teresa K. Henry (D)
Rep. Hal Jacobson (D)
Rep. William J. Jones (R)
Rep. Gary MacLaren (R)
Rep. Bruce Malcolm (R)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Marion Mood, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:	SB 478, 3/8/2005; SB 491, 3/30/2005; HJ 39, 3/29/2005; SB 73, 3/29/2005; SB 109, 3/29/2005; SB 462, 3/29/2005
Executive Action:	SB 396; SB 342; SB 197; SB 73; SB 478; SB 491

source. **SEN. GALLUS** advised the money would come either through Executive Order or by request of the next Legislature.

VICE CHAIR BROWN asked whether the Federal government gave sufficient notice to the Department with regard to reduction in funds or whether they did this overnight as well. **Mr. Koch** replied they would not be given any notice. He explained, with regard to the Medicaid program, those changes would mainly be made effective at the start of a fiscal quarter. **VICE CHAIR BROWN** asked why this could not be done with the agencies' providers. **Mr. Koch** felt it could be done.

REP. TERESA HENRY, HD 96, MISSOULA, wondered what would constitute the "imminent peril" to public health, safety or welfare which would require the adoption of emergency rule-making. **Mr. Koch** advised the justification for imminent peril had to do with the availability of medical services to Medicaid clients, the rationale being that a substantial cut in rates would result shutting down some providers' business as they could not sustain that kind of financial impact; this in turn meant that recipients would not be able to get proper care and could result in public health problems.

Closing by Sponsor:

SEN. GALLUS closed.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 2.5}

HEARING ON SB 491

Opening Statement by Sponsor:

SEN. STEVEN GALLUS (D), SD 37, opened the hearing on **SB 491**, Revise benefits and definitions in firefighters' unified retirement system. He stated the gist of the bill was to use the highest average compensation in the calculation of retirement benefits rather than the final average as some officers might incur a reduction in pay by moving into smaller jurisdictions.

Proponents' Testimony:

Doug Neil, Great Falls Fire & Rescue, Montana State Firemen's Association, stated this bill would provide the option to go to work in a smaller community where the officer might enjoy a higher rank but took a cut in pay, and it would not adversely affect his retirement benefits.

Pat Clinch, Montana State Council for Professional Firefighters, rose in support of SB 491, adding his organization would have preferred to have overtime pay included.

Mike Anderson, Retired Firefighter, stood in support of SB 491.

Opponents' Testimony: None

Informational Testimony:

Mike O'Connor, Montana Public Employees Retirement Administration (MPERA), offered to answer any questions.

Questions from Committee Members and Responses:

VICE CHAIR BROWN asked whether retirement calculations in other systems were based on the last three years of compensation. **Mr. O'Connor** advised that all systems used the highest average compensation except for police and highway patrol. He suggesting taking a look at this during the next interim to ensure consistency.

Closing by Sponsor:

SEN. GALLUS closed.

{Tape: 1; Side: B; Approx. Time Counter: 2.5 - 12.2}

HEARING ON HJ 39

Opening Statement by Sponsor:

REP. DAVE GALLIK (D), HD 79, opened the hearing on **HJ 39**, Study alternatives to existing campaign financing system during the interim.

Proponents' Testimony:

Ellie Hodges, self, stated she was a fifth grader at Central Elementary School, and attended the PEAK Gifted and Talented Program one day a week where she had studied campaign financing last November. HJ 39 was the result of her research and discussions. **Ms. Hodges** felt this study was necessary because private campaign financing could create perceived and real conflicts of interest whereas participation in public campaign financing would allow qualified people to run for office without having to be wealthy or connected to big money contributors. It would free elected officials from continuous fund-raising and allow more time for them to do their work.

REP. HENRY stated her support as there was an acute need for the bill.

VICE CHAIR BROWN advised the Department did have time to notify providers well in advance of impending rate reductions, which would allow the providers to make the necessary changes in their companies. She added this Department was totally out of control and favored sending a strong message for them to provide for their clients first and their bureaucracy last.

REP. JONES contended passage of this bill would make a special session necessary.

REP. DICKENSON reminded the Committee that the Legislature was responsible for the agency's budget. She felt it unfair that consumers and providers had to suffer because of poor budget decisions; a request for a supplemental appropriation would send a clear message to the Legislature to do better. She thought it unfair that the agency had to cut services, rates to providers and eligibility standards to stay within its budget.

REP. A. OLSON agreed with **REP. JONES** in that passage of this bill meant a special session at \$50,000 per day, which would have to come out of someone's program.

Vote: Motion that SB 478 BE CONCURRED IN carried 9-7 with **REP. ANDERSEN**, **REP. HENDRICK**, **REP. JONES**, **REP. MACLAREN**, **REP. MALCOLM**, **REP. A. OLSON**, and **REP. B. OLSON** voting no.

CHAIRMEN JENT agreed to be the House Sponsor.

EXECUTIVE ACTION ON SB 491

Motion/Vote: **REP. DICKENSON** moved that SB 491 BE CONCURRED IN. Motion carried 14-2 by voice vote with **REP. JONES** and **REP. MACLAREN** voting no.

REP. JACOBSON agreed to be the House Sponsor.

CHAIRMAN JENT provided copies of a draft of his letter to DNRC regarding the transfer of State property in Jefferson County.
EXHIBIT(sth68a11)

Council Senate Members
BOB KEENAN-Vice Chair
VICKI COCCHIARELLA
BRENT CROMLEY
DUANE GRIMES
JON TESTER
FRED THOMAS



DRAFT

Council House Members
KIM GILLAN-Chair
ROY BROWN
GEORGE GOLIE
JEFF LASZLOFFY
DOUG MOOD
DAVID WANZENRIED

EXHIBIT 11
DATE 3-31-05
N/A

Montana Legislative Council

PO BOX 201706
Helena, Montana 59620-1706
(406) 444-3064
FAX (406) 444-3036

March 31, 2005

Board of Land Commissioners-
c/o Department of Natural Resources and Conservation
PO Box 201601
Helena, MT 59620-1601

Dear Commissioners:

This letter confirms that on March 22, 2005, the Department of Natural Resources and Conservation on behalf of the Department of Corrections (DOC) sought consultation with the standing House State Administration Committee of the 59th Legislature in accordance with section 77-2-351, MCA, on the following property transfers:

- transfer of a wastewater pipeline and of wastewater lagoons from the DOC to the City of Boulder;
- transfer of half of a high school football field and practice field from the DOC to the Jefferson County High School District;
- transfer of a stockpile area from the DOC to Jefferson County; and
- transfer of the Jefferson County Fairgrounds from the DOC to Jefferson County.

The House State Administration Committee offers for your consideration the following suggestions:

The deed for the Jefferson County Fairgrounds property should be transferred with a restriction that Jefferson County must deposit all collected Fairground fees into a special fund that may be used only for operating and maintaining the Fairgrounds.

(more)

HOUSE OF REPRESENTATIVES
Roll Call
STATE ADMINISTRATION COMMITTEE

DATE 3-31-05

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. LARRY JENT, CHAIR	✓		
REP. VERONICA SMALL- EASTMAN, VICE CHAIR	✓		
REP. DEE BROWN, VICE CHAIR	✓		
REP. JOAN ANDERSEN	✓ 8:05		
REP. MARY CAFERRO	✓		
REP. SUE DICKENSON	✓		
REP. EMELIE EATON	✓		
REP. ROBIN HAMILTON	✓		
REP. GORDON HENDRICK	✓ 8:05		
REP. TERESA HENRY	✓		
REP. HAL JACOBSON	-		
REP. WILLIAM JONES	✓		
REP. GARY MacLAREN	✓ 8:05		
REP. BRUCE MALCOLM	✓		
REP. ALAN OLSON	✓ 8:20		
REP. BERNIE OLSON	✓		



HOUSE STANDING COMMITTEE REPORT

March 31, 2005

Page 1 of 1

Mr. Speaker:

We, your committee on **State Administration** recommend that **Senate Bill 491** (third reading copy -- blue) **be concurred in.**

Signed: *Larry Jent*
Representative Larry Jent, Chair

To be carried by Representative Hal Jacobson

- END -

Committee Vote:
Yes 14, No 2.

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3/31/05
jbm

**Montana House of Representatives
Visitors Register**

STATE ADMINISTRATION COMMITTEE

Date 3-31-05

HJ 39 SB 73 SB 109

Bill No. SB 462 478 Sponsor(s) _____

SB 491

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Name and Address	Representing	Support	Oppose	Inf.
Gary L. Beck	City of Deer Lodge			
Mike Maltway	" "			✓
Kirk Sandquist	City of Deer Lodge		✓	
Jane Olsen	MUS (SB 73)			✓
GLEN STINAR	MLEM	✓		
Elie Hodges Helendani	self	✓		
Phil Robinson	self	✓		
JOHN WARD HD 84	HD 84		✓	
John Koch	Dept. Health + Hum. Servs.		✓	
Dwight O'Hara	Powell County Commissioner		✓	
DOUG NEIL	491 MSFA	✓		
Jim Mager	City of Deer Lodge		✓	
Pat Clinch	MSCRFF	SB 461		
Jan Banda	Powell Co Chamber		✓	
Pat Hansen	PC M + AF		✓	
Bob McNally	PCM & A7 D.L.			
Cindy Hiner	HD 85		✓	

Mike Anderson SB 491 ✓

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

BUD CLINCH

MT COAL COUNCIL

SB 462-SUPPORT

SB 109 - Ewert

[Signature]

[Signature]

S:/StateAdmin/VisitorReg2003

John Bloomquist

MT. Statgans

X Support SB 462

John Youngberg
Don Allan

MT Farm Bureau

X SB 462

WETA

X SB 462